

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

FILED-CLERK  
U.S. DISTRICT COURT  
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TX EASTERN-MARSHALL

PAICE LLC,

Plaintiff,

v.

TOYOTA MOTOR CORPORATION, a  
Japanese Corporation, TOYOTA MOTOR  
NORTH AMERICA, INC., and TOYOTA  
MOTOR SALES, U.S.A., INC.,

Defendants.

2-04 CV-211 DF

Case No.: \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Paice LLC, by and through the undersigned attorneys, hereby files this Complaint against Toyota Motor Corporation, Toyota Motor North America, Inc., and Toyota Motor Sales, U.S.A., Inc., requesting damages and injunctive relief based upon its personal knowledge as to its own facts and circumstances, and based upon information and belief as to the acts and circumstances of others.

**PARTIES**

1. Plaintiff Paice LLC ("Paice") is a Delaware limited liability company having its principal place of business at 6830 Elm Street, McLean, Virginia 22101.
2. Defendant Toyota Motor Corporation ("TMC") is, upon information and belief, a Japanese Corporation having its principal place of business at 1 Toyota-Cho, Toyota City, Aichi Prefecture 471-8571, Japan.

3. Defendant Toyota Motor North America, Inc. (“Toyota NA”) is, upon information and belief, a Delaware corporation having its principal place of business at 9 West 57th Street, Suite 4900, New York, NY 10019. Upon further information and belief, Toyota NA is a wholly-owned subsidiary of TMC and is the holding company for TMC’s United States sales and manufacturing companies.

4. Defendant Toyota Motor Sales, U.S.A., Inc. (“Toyota USA”) is, upon information and belief, a Delaware corporation having its principal place of business at 19001 S. Western Avenue, Torrance, CA 90509. Upon further information and belief, Toyota USA is TMC’s sales and marketing arm, overseeing TMC vehicle sales, service, and parts for the over 1,200 Toyota dealerships located within the United States.

#### **JURISDICTION AND VENUE**

5. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction over this action under 28 U. S. C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over TMC, Toyota NA, and Toyota USA (collectively, “Defendants”) because, among other things, Defendants have directly infringed, contributed to the infringement of, and/or actively induced infringement of Paice’s patents within this judicial district, as set forth herein.

7. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400(b) because Defendants have committed acts of infringement in and are subject to personal jurisdiction in this judicial district.

**FACTS**

8. Paice is the owner by assignment of all right, title, and interest in and to United States Letters Patent No. 5,343,970 (“the ’970 patent”) entitled “HYBRID ELECTRIC VEHICLE.” The ’970 patent was duly and legally issued by the United States Patent and Trademark Office on September 6, 1994.

9. Paice is the owner by assignment of all right, title, and interest in and to United States Letters Patent No. 6,209,672 (“the ’672 patent”) entitled “HYBRID VEHICLE.” The ’672 patent was duly and legally issued by the United States Patent and Trademark Office on April 3, 2001.

10. Paice is the owner by assignment of all right, title, and interest in and to United States Letters Patent No. 6,554,088 (“the ’088 patent”) entitled “HYBRID VEHICLES.” The ’088 patent was duly and legally issued by the United States Patent and Trademark Office on April 29, 2003.

**COUNT I: INFRINGEMENT OF UNITED STATES PATENT NO. 5,343,970**

11. Paice incorporates paragraphs 1-10 as if fully set forth herein.

12. Defendants have been and are now making, using, selling, offering for sale within the United States, or importing into the United States, hybrid vehicles that infringe the ’970 patent.

13. Defendants have been and now are contributing to the infringement of and/or actively inducing the infringement of the ’970 patent by others by, among other things, distributing or offering for sale hybrid vehicles and manuals that teach third parties to operate said hybrid vehicles in a manner that directly infringes the ’970 patent.

14. Defendants have had actual knowledge of the '970 patent and their infringement is willful.

15. Defendants' past and continued acts of infringement have injured Paice and thus Paice is entitled to recover damages adequate to compensate for that infringement.

16. Defendants' acts of infringement have caused and will continue to cause irreparable injury to Paice unless and until enjoined by this Court.

**COUNT II: INFRINGEMENT OF UNITED STATES PATENT NO. 6,209,672**

17. Paice incorporates paragraphs 1-16 as if fully set forth herein.

18. Defendants have been and are now making, using, selling, offering for sale within the United States, or importing into the United States, hybrid vehicles that infringe the '672 patent.

19. Defendants have been and now are contributing to the infringement of and/or actively inducing the infringement of the '672 patent by others by, among other things, distributing or offering for sale hybrid vehicles and manuals that teach third parties to operate said hybrid vehicles in a manner that directly infringes the '672 patent..

20. Defendants have had actual knowledge of the '672 patent and their infringement is willful.

21. Defendants' past and continued acts of infringement have injured Paice and thus Paice is entitled to recover damages adequate to compensate for that infringement.

22. Defendants' acts of infringement have caused and will continue to cause irreparable injury to Paice unless and until enjoined by this Court.

**COUNT III: INFRINGEMENT OF UNITED STATES PATENT NO. 6,554,088**

23. Paice incorporates paragraphs 1-22 as if fully set forth herein.

24. Defendants have been and are now making, using, selling, offering for sale within the United States, or importing into the United States, hybrid vehicles that infringe the '088 patent.

25. Defendants have been and now are contributing to the infringement of and/or actively inducing the infringement of the '088 patent by others by, among other things, distributing or offering for sale hybrid vehicles and manuals that teach third parties to operate said hybrid vehicles in a manner that directly infringes the '088 patent.

26. Defendants have had actual knowledge of the '088 patent and their infringement is willful.

27. Defendants' past and continued acts of infringement have injured Paice and thus Paice is entitled to recover damages adequate to compensate for that infringement.

28. Defendants' acts of infringement have caused and will continue to cause irreparable injury to Paice unless and until enjoined by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Paice LLC prays that this Court enter judgment:

- a) declaring that Defendants have infringed United States Patent Nos. 5,343,970; 6,209,672; and 6,554,088;
- b) preliminarily and permanently enjoining Defendants and their officers, agents, employees, representatives, successors and assigns, and any others acting in concert with them, from infringing United States Patent Nos. 5,343,970; 6,209,672; and 6,554,088;
- c) awarding plaintiff Paice damages resulting from Defendants' infringement adequate to compensate for that infringement;

- d) awarding plaintiff Paice treble damages as a result of Defendants' willful infringement;
- e) declaring this to be an exceptional case within the meaning of 35 U.S.C. § 285;
- f) awarding plaintiff Paice its costs in this action, together with reasonable attorney's fees and pre-judgment and post-judgment interest; and
- g) granting plaintiff Paice such other relief as this court deems just and proper.

Paice respectfully demands a trial by jury.

Respectfully submitted,

Dated: June 8, 2004

By: Sam Baxter  
Samuel F. Baxter (Bar No. 01938000)  
McKOOL SMITH P.C.  
505 East Travis Street, Suite 105  
Marshall, Texas 75670  
(903) 927-2111  
(903) 927-2622

Of counsel:

Ruffin B. Cordell (Bar No. 04820550)  
FISH & RICHARDSON P.C.  
1425 K Street, N.W., 11<sup>th</sup> Floor  
Washington, DC 20005  
(202) 783-5070 (phone)  
(202) 783-2331 (facsimile)

Robert E. Hillman  
FISH & RICHARDSON P.C.  
225 Franklin Street  
Boston, MA 02110  
(617) 542-5070 (phone)  
(617) 542-8906 (facsimile)

Andrew D. Hirsch, Esquire  
PAICE LLC  
6830 Elm Street  
McLean, VA 22101  
(703) 288-9471 (phone)  
(703) 288-9474 (facsimile)

Attorneys for Plaintiff  
PAICE LLC